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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,381

09/20/2006

Peter Ziemer

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EXAMINER

LEWIS, TISHA D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,381	Applicant(s) ZIEMER, PETER	
	Examiner TISHA D. LEWIS	Art Unit 3655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 26, 28-33 and 35 is/are rejected.
- 7) ☒ Claim(s) 34 and 36-50 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The following is a first action on the merits of application serial no. 10/593,381 filed on September 20, 2006.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement filed September 20, 2006 has been considered.

Claim Objections

Claims 26 and 28 are objected to because of the following informalities:

- In claim 26, on line 7, "the seventh" should be inserted after "sixth".
- In claim 28, on line 2, "frictional" should be changed to "shape fit". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26 and 28-31 rejected under 35 U.S.C. 102(b) as being anticipated by Haka 6663528. As to claim 26, Haka discloses a dual clutch planetary transmission having first, second, third and fourth gear sets (122, 124, 126, 128), at least first and

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second frictional shifting elements (108, 110) for up shifting of different power paths in a power flow and with first, second, third, fourth, fifth, sixth and seventh shape fit shifting elements (112, 114, 116, 118 each have at least two separate connections) for attaining various ratio stages in the power paths, the frictional elements and the shape fit elements are positioned between shafts of the gear sets, a housing (170), an input shaft (102) and an output shaft (106) such that six gear ranges can be accomplished in a manner of free interruption of traction and at least one of the frictional elements is a clutch, the second, third and fourth sets form a three carrier (138, 148, 154), five shaft transmission apparatus with separate gears (136, 146, 156). As to claim 28, Haka discloses at least one of the shape fit elements being a brake (via 118). As to claim 29, Haka discloses the frictional elements being one of a wet or dry element. As to claim 30, Haka discloses the shape fit elements functioning as synchronized elements. As to claim 31, Haka discloses the frictional elements in the area of the input and the shape fit elements between frictional elements and the output.

Claims 26 and 28-33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Usoro et al 6758787. As to claim 26, Usoro discloses a dual clutch planetary transmission having first, second, third and fourth gear sets (26, 36, 46, 56), at least first and second frictional shifting elements (62, 63) for up shifting of different power paths in a power flow and with first, second, third, fourth, fifth, sixth and seventh shape fit shifting elements (64 to 71) for attaining various ratio stages in the power paths, the frictional elements and the shape fit elements are positioned between shafts of the gear sets, a housing (80), an input shaft (17) and an output shaft (19) such that

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six gear ranges can be accomplished in a manner of free interruption of traction and at least one of the frictional elements is a clutch, the second, third and fourth sets form a three carrier (39, 49, 59) five shaft transmission apparatus with separate gears (37, 47, 48, 57). As to claim 28, Usoro discloses at least one of the shape fit elements being a brake (via 64 or 65). As to claim 29, Usoro discloses the frictional elements being one of a wet or dry element. As to claim 30, Usoro discloses the shape fit elements functioning as synchronized elements. As to claim 31, Usoro discloses the frictional elements in the area of the input and the shape fit elements between frictional elements and the output. As to claim 32, Usoro discloses the first set being a simple set (26). As to claim 33, Usoro discloses a first shaft (extend from 22) of the first set operationally connected to the input by the second element (62 or 63). As to claim 35, Usoro discloses a first shaft of the first set connected to the input and an additional shaft (via 72) of the first set can be brought into operational communication with a shaft of the second set by the second element (when 62 is engaged, torque is provided from 24 to 32).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

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Claims 26 and 28-33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Baldwin 7175563. As to claim 26, Baldwin discloses a dual clutch planetary transmission having first, second, third and fourth gear sets (16, 18, 22, 20), at least first and second frictional shifting elements (24, 26) for up shifting of different power paths in a power flow and with first, second, third, fourth, fifth, sixth and seventh shape fit shifting elements (28, 32, 34, 36 each have two separate shifting elements) for attaining various ratio stages in the power paths, the frictional elements and the shape fit elements are positioned between shafts of the gear sets, a housing (78), an input shaft (12) and an output shaft (14) such that six gear ranges can be accomplished in a manner of free interruption of traction and at least one of the frictional elements is a clutch, the second, third and fourth sets form a three carrier (50, 58, 68) five shaft transmission apparatus with separate gears (52, 60, 70). As to claim 28, Baldwin discloses at least one of the shape fit elements being a brake (34 or 36). As to claim 29, Baldwin discloses the frictional elements being one of a wet or dry element. As to claim 30, Baldwin discloses the shape fit elements functioning as synchronized elements. As to claim 31, Baldwin discloses the frictional elements in the area of the input and the shape fit elements between frictional elements and the output. As to claim 32, Baldwin discloses the first set being a simple set (16). As to claim 33, Baldwin discloses a first shaft (extend from 38 or 40) of the first set operationally connected to the input by the second element (26). As to claim 35, Baldwin discloses a first shaft of the first set connected to the input and an additional shaft (via 42 or 80) of the first set can be brought into operational communication with a shaft of the second set by the

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second element (when 26 is engaged, 2, 4 or 6 can be provided wherein at least 80 connected to 52 can provide 2 with torque with engagement of 34).

Allowable Subject Matter

Claim 27 is allowed.

Claims 34 and 36-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Ouemerals et al 4223571 and Haka 7004881.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-F 9:30AM TO 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl
/TISHA D. LEWIS/
Primary Examiner, Art Unit 3655
April 24, 2009